

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.29903 of 2018

ORDER:

Heard Sri Sricharan Telaprolu, learned counsel for the petitioner and Sri Chatla Madhu, learned Standing Counsel appearing for the Respondent Corporation.

2. The Respondent Corporation issued a notice under Sections 452(1) and 461(1) of HMC Act, 1955, asking the petitioner to show cause as to why the subject constructions mentioned therein should not be removed/alterd or pulled down. In response to the said show cause notice, the petitioner submitted explanation on 10.8.2018 to the Respondent Corporation. Now, the Respondent Corporation issued the impugned notice bearing Nos.203/TPS/W.No.5/CIR-18/NZ/GHMC, 203/TPS/W.No.5/CIR-18/NZ/GHMC and 187/TPS/W.No.5/CIR-18/NZ/GHMC dated 17.8.2018 under Section 452(2) of HMC Act 1955 indicating that action **would** be taken under Section 636 of the Act.

3. According to the learned counsel for the petitioner, the action impugned is highly illegal, arbitrary and opposed to the very spirit and object of the provisions of Hyderabad Municipal Corporation Act, 1955 and violative of principles of natural justice.

4. On the other hand, it is submitted by the learned Standing Counsel for Respondent Corporation Sri Chatla Madhu that the petitioner failed to produce the sanctioned plan and documents pertaining to A/c shed, as such, the impugned orders cannot be faulted with.

5. Having called for the explanation and having acknowledged the same, this Court does not find any justification on the part of the Respondent Corporation in not considering the contents of the said explanation. A perusal of the impugned orders clearly discloses that the Respondent authorities did not make any endeavour in the direction of considering and advertent to the contents of the explanation. On this ground alone, the impugned orders cannot be sustained in the eye of law and the same are liable to be set aside and the matter requires re-consideration.

5. For the aforesaid reasons, the writ petition is allowed, setting aside the orders passed by the Respondent Corporation under Section 452(2) of HMC Act, 1955 bearing Nos.203/TPS/W.No.5/CIR-18/NZ/GHMC, 203/TPS/W.No.5/CIR-18/NZ/GHMC and 187/TPS/W.No.5/CIR-18/NZ/GHMC dated 17.8.2018. It is open for the petitioners to submit documents, if any, in support of their case within a period of one week from the date of receipt of this order and the Respondent Corporation shall pass appropriate orders afresh, in accordance with law, after considering the explanation offered by the petitioners herein. Till the said exercise attains finality, no coercive action shall be taken by the Respondent Corporation in respect of the subject property. It is also open for the Respondent Corporation to issue notice afresh indicating the exact deviations in respect of the subject property. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 21.8.2018
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21.8.2018

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